

## Indiana NRCS Wetland Mitigation Policy

This document clarifies Indiana Natural Resources Conservation Service (NRCS) policy for providing technical assistance for wetland mitigation and restoration projects as they relate to the Food Security Act. This policy only applies to USDA program participants, as NRCS does not assist non-USDA program participants to mitigate wetlands for agricultural purposes. This document assumes that a certified wetland determination has been completed.

For step by step instructions refer to Mitigation Process on page 3.

### Minimal Effect Exemptions

Requests for minimal effect will be processed using:

- ◆ Procedure for Wetland Minimal Effect Exemptions Indiana  
A minimal effect agreement will be developed for each site in accordance with the National Food Security Act Manual (NFSAM). After the minimal effect agreement has been implemented, NRCS will issue a wetland determination to document the minimal effect decision.
- ◆ If minimal effect does not apply, NRCS should explain mitigation policy to the landowner.

### Mitigation

Mitigation is used to replace lost wetland functions and values associated from wetland conversion. A landowner may request mitigation to compensate for a proposed wetland conversion or to compensate for an existing converted wetland. Wetlands should be mitigated to the same wetland plant community type (herbaceous, shrub, or forested) or to the same undisturbed historic wetland type.

### Mitigation Criteria

A mitigation agreement and plan including any engineering designs approved by NRCS are required on all sites prior to mitigation commencing. The mitigation plan will include all practices with measurable criteria to replace lost wetland functions and values.

#### I. Off-Site Mitigation

Off-site mitigation is using a restoration site outside the boundary of the converted wetland or the wetland proposed for conversion. NRCS may assist clients with the development of a mitigation plan and agreement. The landowner is responsible for the following costs associated with off-site mitigation: engineering surveys and designs, costs associated with all practice implementation and construction, monitoring, and obtaining an easement. The easement will meet criteria similar to the Wetland Reserve Program (WRP) requirements. This may include items such as land surveys, legal descriptions, permanent boundary markers, title insurance, etc. (refer to WRP Manual 514.31-514.34, NFSAM and appropriate Indiana NRCS policy).

##### A. Wetland Functional Assessment

A functional assessment will be completed by authorized NRCS staff, for each site, to determine wetland functions and values that require replacement from mitigation. NRCS will use the approved functional assessment model that is appropriate for the sites under consideration. Mitigation normally will not be approved from different functional assessment models, e.g. a Mineral Soils Flats wetland proposed for conversion should not be mitigated to a Saturated Soils Flats wetland model. The NRCS State Conservationist may approve exceptions where wetland functions and values can be replaced at the mitigation site and/or where multiple conversions sites are being restored to a single mitigation site and >75% of the conversion acres are the same functional model as the mitigation site.

##### B. Mitigation Ratio

Mitigation ratios and the total acres required for mitigation will be based upon the results from wetland functional assessment and the wetland mitigation ratio calculator.

##### C. Status Reviews

NRCS will complete annual status reviews to insure compliance with conditions stipulated under the mitigation plans and agreement. When all planned practices are installed and the required vegetation and hydrology are established and maintained according to the mitigation plan, a final status review will be completed and signed by NRCS and the landowner. After the final status review is completed, NRCS will cease to complete status reviews.

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### D. Monitoring

NRCS will not monitor wetlands that have been mitigated off-site. All monitoring is the responsibility of the applicant as detailed in the wetland mitigation plan.

## II. On-Site Restoration

On-site restoration is replacing lost wetland functions and values on the same boundary as the converted wetland. NRCS may assist clients with the completion of mitigation agreements and plans including engineering surveys and designs to restore lost wetland functions and values on the original wetland site. The landowner is responsible for the following costs associated with on-site restoration: costs associated with all practice implementation and construction and monitoring.

### A. Wetland Functional Assessment

A functional assessment evaluation will be completed for each site to determine wetland functions and values that require replacement for restoration. NRCS will use the approved functional assessment model<sup>1</sup> that is appropriate for the sites under consideration.

### B. Mitigation Ratios

Wetlands that are proposed for restoration on-site will be restored using a 1:1 ratio.

### C. Status Reviews

NRCS will complete annual status reviews to insure compliance with conditions stipulated under the restoration plan and agreement. When all planned practices are installed and the required vegetation and hydrology is established and maintained according to the mitigation documents a final status review will be completed and signed by NRCS and the landowner. After the final status review is completed, NRCS will cease to complete status reviews.

### D. Monitoring

NRCS will not monitor wetlands that have been restored on-site. All monitoring is the responsibility of the applicant as detailed in the wetland restoration plan.

## Permits Required By Other Governmental Agencies

It is the responsibility of the applicant to obtain required permits from the U.S. Army Corps of Engineers, the Indiana Department of Environmental Management, the Indiana Division of Water, and other agencies as applicable. NRCS will notify participants that all wetland, minimal effect, and mitigation determinations only pertain to Swampbuster provisions of the Food Security Act and that it is the participant's responsibility to obtain permits from other applicable agencies.

- ◆ NRCS will not provide mitigation or restoration planning assistance or designs until all permit requirements are met.

## Additional Guidance

NRCS will use the appropriate functional assessment model to determine the acres required for mitigation with the assumption that the proposed conversion site has not been recently altered (within the last 5 years) by a human disturbance. Activities that could disturb a wetland include harvesting timber from a forested wetland for timber products, or woody shrubs cut for firewood.

During the on-site evaluation, if it is difficult to discern if the proposed conversion site is herbaceous, dominated by shrubs, is a forested site, or is a forested site with trees greater than 3 inches DBH, then remote sensing methods may be used to supplement an on site evaluation. Remote sensing could include FSA slides, aerial photographs, and soil survey maps to determine the type of vegetation present before the disturbance. The Agricultural Wetland Data Sheet<sup>1</sup> or other documentation containing the same information will be used to record the type of vegetation found after completion of remote sensing.

The On-site Evaluation Flow Chart (on page 4) can be used as a guide to determine the type of vegetation present before a recent human disturbance. This information may be used in the functional assessment process.

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## Indiana Mitigation - Step-By-Step Process

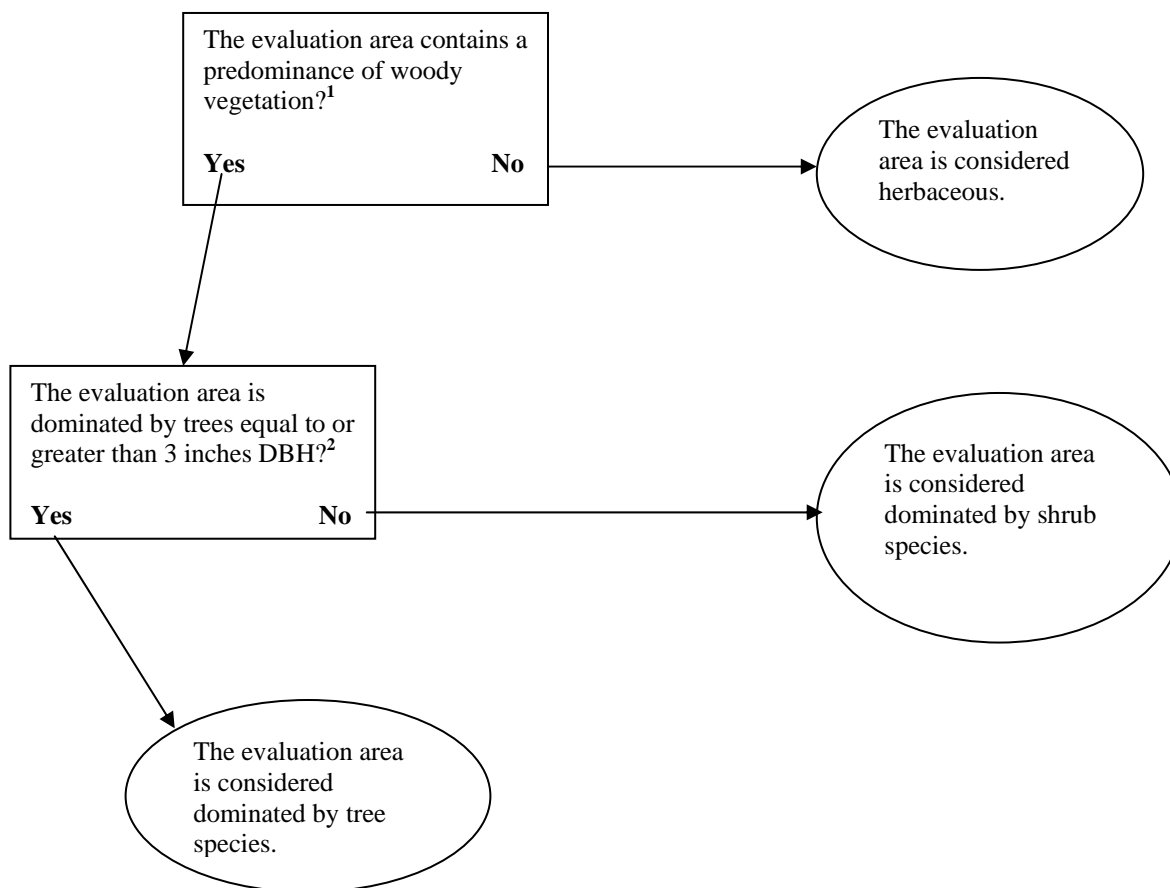
### Off-Site Mitigation Process

1. Landowner submits request in writing to mitigate land with an existing wetland determination for crop production.
2. NRCS determines if the site qualifies for a Minimal Effect Exemption
  - ☐ Yes, NRCS completes Minimal Effect Agreement. END
  - ☐ No, Go to Step 3
3. NRCS completes wetland functional assessment with applicable functional assessment model to determine mitigation requirements. Go to Step 4.
4. NRCS notifies landowner in writing that mitigation will be required to convert wetlands. NRCS documents wetland functions and values that need to be replaced with mitigation and that the landowner should contact the Corps of Engineers<sup>2</sup> (COE) for a permit decision.
5. Landowner submits letter from COE with permit requirements to NRCS  
COE permit requirements:
  - ☐ COE permit is not required, Go to Step 6.
  - ☐ COE permit is required, NRCS advises landowner to complete COE permit process. When landowner obtains COE permit, Go to Step 14
6. COE Permit is Not Required  
NRCS advises landowner of mitigation criteria and of the need to locate potential mitigation sites for NRCS review and approval.
  - ☐ Landowner does not submit mitigation sites, END
  - ☐ Landowner notifies NRCS of potential mitigation sites for approval, Go to Step 7
7. NRCS completes functional assessment of mitigation site
  - ☐ NRCS approves mitigation site, Go to Step 8
  - ☐ NRCS does not approve mitigation site, and documents decision in writing.
8. NRCS advises landowner in writing that the mitigation site is approved and that a mitigation plan is required. NRCS will assist landowner to develop the mitigation plan upon request. NRCS will not assist with engineering surveys and designs. NRCS documents decision in writing including: acres that are required for mitigation and general information on mitigation practice requirements for hydrology and vegetation establishment. Go to Step 9
9. Landowner requests NRCS assistance to develop mitigation plan
  - ☐ NRCS and landowner agree on mitigation plan practices, Go to step 10
  - ☐ NRCS and landowner do not agree on mitigation plan practices, END, NRCS documents decision in writing
10. NRCS develops mitigation plan, Go to Step 11.  
Landowner does not pursue, END
11. Mitigation plan reviewed by appropriate NRCS personnel
  - ☐ NRCS approves plan, Go to Step 12.
  - ☐ NRCS does not approve mitigation plan. END, Document decision in writing.
12. Mitigation plan approved by NRCS
  - ☐ NRCS develops a mitigation agreement. Go to Step 13.
13. Landowner and NRCS agree and sign mitigation agreement?
  - ☐ Yes, END
  - ☐ No, inform landowner in writing that agreement is needed before NRCS can conclude process.
14. NRCS Review of COE Permit  
Does permit satisfy Food Security Act Requirements?
  - ☐ Yes, NRCS issues CW-CPM decision in writing.
  - ☐ No, NRCS issues additional requirements, document decision in writing.

<sup>2</sup>Before NRCS can proceed further with the mitigation process, a determination from the Army Corps of Engineers (COE) concerning 404 Clean Water Act permits is required. NRCS coordinates with the COE to assure mitigation plans are acceptable to both agencies in cases where both agencies may be involved.

**Indiana NRCS Wetland Minimal Effect and Mitigation Policy**  
**April 10, 2006**

**On-site Evaluation Flow Chart**



<sup>1</sup>Woody vegetation could be identified by stumps, branches and limbs found on the site. Remote sensing can also be used to document that the area was clearly in woody vegetation prior to the disturbance.

<sup>2</sup>Consider the size of stumps, branches, etc. Remote sensing interpretation documents that the area was clearly dominated by tree species prior to the disturbance.